June 26, 2007


Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Notice of Oral *Ex Parte* Presentation in WT Docket No. 06-150

Dear Ms. Dortch:

On June 25, 2007, Harold Feld of Media Access Project and Dr. Andrew L. Afflerbach of Columbia Telecommunications Corporation (CTC) met with Fred Campbell, James Schlichting, Nese Guendelsberger, Cathy Massey, John Branscome, Ziad Sleem, Mary Schultz, Sharif Shahrier, and John Spencer of the Wireless Telecommunications Bureau with regard to the above-captioned proceeding.

Dr. Afflerbach discussed the CTC engineering report submitted as an attachment to comments filed in this proceeding by the Public Interest Spectrum Coalition (PISC) on May 23. Dr. Aflerbach made the following points of clarification with regard to the PISC proposal.

First, PISC does not propose that a licensee must offer potential retail service providers any interconnection/peering point. While it would maximize efficiency to mandate a peering point at the gateway between the radio network and the broader cloud, the Commission could mandate the interconnection point anywhere in the network from the tower backward. From an engineering standpoint, there are inefficiencies in requiring all potential service providers to recreate the same basic network behind the tower, but such a mandate would still permit new entrants.

Second, the nature of the access provided is capacity for bit transport *via* the spectrum and (potentially) through the core network of the licensee. The critical aspect of the PISC proposal isavoidance of partitioning the spectrum into small channel sizes that would make it difficult or impossible to provide services.

Third, PISC does not propose that a licensee must support any standard a retail provider requests. Rather, PISC proposes that a licensee would provide a list of standards it supports and that these standards must be open in the engineering sense, *i.e.*, they must be readily obtainable on reasonably non-discriminatory terms to all potential providers and equipment manufacturers. While this could include royalty-based licensing, the use of flexible freely-available standards (such as TCP/IP) has

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numerous pro-competitive advantages.

Fourth, whether the Commission or the licensees should determine the conditions of access depends in large part on the nature of the licensees. If the Commission adopts spectrum caps or other mechanisms that prevent the largest incumbent broadband or wireless providers from capturing the open access licenses, then the Commission can adopt a set of basic principles and permit market-based negotiations to resolve these issues. Even in such cases, however, the Commission should require licensees to publish the list of interconnection points, the protocols licensees will support, and to make the same terms available to all would-be providers on non-discriminatory terms. If the Commission permits licensees to offer retail services through these licenses, or permits licensees with strong financial incentives to interfere with the development of a vibrant retail market for wireless broadband services to acquire the licenses, then the Commission will need to take a more active approach in resolving these issues.

With regard to the proposed "wireless *Carterfone*"condition requiring that the licensee permit any device to attach to the network, PISC proposes that this requirement address the device authentication and other technical matters that address connection to the wireless network. PISC recognizes that service providers offering competing services *via* the "open access" conditions may use software to make it difficult for a customer to switch a device from one provider to another, *e.g.*, mobile television service provider leasing access from a licensee may install software that makes it difficult for a user to transfer this device to a competing mobile television provider also leasing access from the same licensee. PISC does not suggest that the licensee should police such conduct. The licensee's obligation is addressed solely to whether the device itself is capable of connecting to the network and a prohibition on interference with any traffic traveling over the network.

Staff asked to what extent under the PISC proposal a licensee could require providers to use technological means to increase spectral efficiency. For example, could licensee require operators to adopt dynamic power control protocols or contention-based protocols for the purpose of maximizing available spectrum? In response, Mr. Feld and Dr. Afflerbach suggested that licensees generally could require the use of such protocols, provided that such requirements did not produce anticompetitive effects.

In conclusion, Mr. Feld and Dr. Afflerbach suggested that the nature of traffic and business models that would emerge in an open access regime could potentially vary significantly from those employed by existing licensees deploying closed networks. Issues such as quality of service guarantees would, of necessity, function differently. Customers not satisfied with the open access model would still have available other providers running closed networks. If the Commission failed to adopt open access

conditions on some licenses, however, those dissatisfied with the existing business models would have no alternatives available.

In accordance with Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206, this letter is being filed with your office.

Respectfully submitted,

/s/

Harold Feld
Senior Vice President

cc: Fred Campbell
James Schlichting
Nese Guendelsberger
Cathy Massey
John Branscome
Ziad N. Sleem
Mary Schultz
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